IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 12668 of 1995

Between:

K.Ramanujaiah, S/o. Venkateshwar Rao.
O/o. District Manager, Andhra Pradesh State

Housing Corporation, Kakinada,
East Godavari District Andhra Pradesh

..... PETITIONER

AND

1 The Andhra Pradesh State Housing Corporation

Rep by Managing Director, Hyderabad.
2 The Collector and Executive Director, A.P.State

Housing Corporation, Krishna Machilipatnam
3 The District Manager(Housing) A.P.State Housing Corporation,
Kakinada East Godavari District
4 The District Manager(Housing) A.P.State Housing Corporation,
Machilipatnam Krishna District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Certiorari, or any other appropriate Writ, order or direction, calling for the records, pertaining to the Proceedings Rc.No. 2040/87/C/APSHC, dt 26-5-1995 issued by the 2nd Respondent and quash the same as wholly arbitrary, highly illegal, and unconstitutional, in so far as the petitioner is concerned, and pass such other and further order or orders as this Hon'ble Court may deem it and proper in the circumstances of the case.

Counsel for the Petitioner: MR.RUPENDRA MAHENDERA

Counsel for the Respondents: MR.V. MOHAN RAMI REDDY

SC FOR APHSC

The Court made the following:

ORDER:

This Writ Petition is filed, questioning the order dated 26-5-1995 in proceedings Rc.No.2040/87/C/APSHC, passed by the second respondent-Collector and Executive Director of A.P. State Housing Corporation, Krishna District, at Machilipatnam, for recovery of Rs.22,500/- from the petitioner.

The petitioner, during the years 1985-86, while working as Assistant Executive Engineer in the respondent-Corporation, was in-charge of executing the Rural Permanent Housing Scheme, along with another higher officer, in Gudlavalleru and Guidivada Mandals. In the year 1987, proceedings were initiated against the petitioner for recovery of Rs.22,500/- on the ground that he along with another officer was responsible for deviation from type and design in constructing houses, which resulted extra expenditure to the Government. Further, allegation was also levelled that he had committed irregularities in drawing and accounting the materials. A charge memo was issued to the petitioner on 29-12-1987 in proceedings Rc.No. 2040/B/APSHC/87, for which, the petitioner has submitted his detailed explanation, denying the allegations. Thereafter, for considerable time, no action was taken. But, ultimately, basing on the

report dated 17-10-1987 of the Assistant Manager (Housing), Krishna District, the impugned order was passed for recovery of Rs.22,500/- from the petitioner, apart from the order to recover the similar amount from one another employee, by name, P.V.Krishnamaraju.

It is the case of the petitioner that after conclusion of the enquiry in the year 1987, no further enquiry was conducted, and, without even issuing show cause notice basing on the enquiry report, which was not furnished to the petitioner, the impugned order is passed in the year 1995, for recovery of the alleged misappropriated amount from the petitioner. In the affidavit filed in support of the Writ Petition, the petitioner has categorically stated that the enquiry report was not furnished to him, and, the same is not denied in the counter affidavit filed on behalf of the respondents.

In the counter affidavit filed on behalf of the respondents, it is stated that the fourth respondent has conducted personal enquiry on 20-8-1987 and submitted report stating that the Deputy Executive Engineer (Housing) and the petitioner are responsible for mis-utilization of the funds.

The learned Standing counsel appearing for the respondent-Corporation has produced set of rules applicable to the respondent-Corporation, titled as, 'A.P. State Housing corporation Limited Service Rules, 1984'. In the said rules, there is separate chapter dealing with the provisions relating to conduct and discipline. Penalties were classified and order for recovery is classified as major misconduct. In the present case, though it is a major misconduct, even without following the required procedure, the impugned order is passed. A copy of the enquiry report is not furnished to the petitioner, and, further, the impugned order is not preceded by any show cause notice to recover the disputed amount from the petitioner. The charges were levelled against the petitioner as early as in the year

1987 by issuing memo dated 29-12-1987, for which, the petitioner has submitted his explanation on 20-1-1988. Thereafter, for several years, no action was taken and ultimately, this impugned order came to be passed in the year 1995.

From the reading of the impugned order and perusal of the counter affidavit, it is clear, that enquiry report, on which basis the impugned order came to be passed, is not furnished to the petitioner. Further, the impugned order is not preceded by any show cause notice. On these grounds alone, the impugned order is liable to be set aside. Accordingly, the impugned order dated 26-5-1995 in proceedings Rc.No.2040/87/C/APSHC passed by the second respondent is set aside.

The Writ Petition is accordingly allowed. No order as to costs.

_____ R.SUBHASH REDDY, J

27.01.2005

DR/Msnr

That Rule nisi has been made absolute.

Witness the Hon’ble Sri Devinder Gupta, the Chief Justice, on this the twenty seventh day of January, Two thousand and five.

To

1 The Managing Director, Andhra Pradesh State

Housing Corporation

, Hyderabad.
2 The Collector and Executive Director, A.P.State

Housing Corporation, Krishna Machilipatnam
3 The District Manager(Housing) A.P.State Housing Corporation,
Kakinada East Godavari District
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